

Applicant : Rourke, et al.
Appl. No. : 09/664,970
Examiner : Ho, Uyen T.
Docket No. : 702563.46

Remarks/Arguments

Claims 1, 9-20, 37 and 39 are pending in this application. In the office action, the Examiner rejected claims 1 and 9 under 35 U.S.C. § 103 as being unpatentable over Cox '758 in view of Martinez et al. '909. The Examiner indicated that claims 10-20, 37, and 39 were allowed. As to the rejected claims, the Examiner stated that "Applicant's arguments filed 8/9/04 have been fully considered but they are not persuasive."

By this amendment, claims 1 and 9 have been cancelled without prejudice in order to secure issuance of a patent containing the allowed claims. Thus, Applicant has complied with all matters raised in the office action. Applicant respectfully requests issuance of a Notice of Allowance for claims 10-20, 37, and 39.

Applicant intends to pursue claims 1 and 9 (or claims having similar scope) in a continuation application to follow. Applicant's cancellation of these claims in this amendment should not be understood to be an agreement with the Examiner's basis for rejecting those claims, which rejections Applicant continues to maintain were improper. Rather, the present cancellation of claims 1 and 9 are solely for the purpose of accelerating prosecution and obtaining issuance of a patent containing the allowed claims.

Applicant : Rourke, et al.
Appl. No. : 09/664,970
Examiner : Ho, Uyen T.
Docket No. : 702563.46

Conclusion

Prompt and favorable action on the merits of the claims is earnestly solicited. Should the Examiner have any questions or comments, the undersigned can be reached at (949) 567-6700.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: March 2, 2005

By: 

Charles C. Fowler
Reg. No. 39,675

Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558
Tel. 949-567-6700
Fax: 949-567-6710